

FILED  
SCRANTON

MAR 12 2008

PER  DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF PENNSYLVANIA

DONALD EDWARD COOL  
PLAINTIFF

VS.

COMMONWEALTH OF PENNSYLVANIA  
DEFENDANT

: RE: ALLEGED CRIMINAL CAUSE/ACTION  
: CR:754-2000 A.K.A. CC-754-00

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:  
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:  
: NO. \_\_\_\_\_  
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COUNTERCLAIM IN THE NATURE OF A COLLATERAL ATTACK DISMISS  
CAUSE/ACTION VACATE A VOID JUDGMENT RELIEF BY INDEPENDENT ACTION  
UNDER AUTHORITY OF 28 U.S.C. 1357, 28 U.S.C. 1331, 28 U.S.C.  
1651, RULE 60 (b), C.F.R. 7211, C.F.R. 48, 15 U.S.C.A. 1692g, 15  
U.S.C.A. 1692f, 15 U.S.C.A. 1962e, 15 U.S.C.A. 78 AND F.R.C.P.  
RULE 8, 28 U.S.C. 1337, 28 U.S.C. 1343, *F.R.C.P. RULE 13 (a)*

I. INTRODUCTION

(1) COMES NOW, Donald Edward Cool, authorized representative and  
attorney-in-fact for the above named Plaintiff, in the above  
Captioned matter by SPECIAL APPEARANCE, IN Propria Persona,  
coming to the table with CLEAN HANDS and GOOD FAITH. Herein and  
Henceforth Known as "PLAINTIFF."

(2) PLAINTIFFS' intent is Not to challenge Actual Guilt or Actual Innocence in the aforementioned referenced alleged Criminal Cause/Action; CR-754-2000.

(3) PLAINTIFF, is not an attorney at law, and therefore not subject to be held to the levels and standards of an attorney at law regarding any responses, demands, motions, or pleading's. In any case or code citations, ANY and ALL emphasis employed herein may be construed to have been added by PLAINTIFF.

(4) IT IS NOT NOW NOR HAS IT EVER BEEN PLAINTIFFS' INTENTION TO AVOID PAYING ANY DEBT OR OBLIGATION THAT PLAINTIFF MAY LAWFULLY OWE.

(5) PLAINTIFF, is not an expert in Commercial dealings nor pretends to be an expert or assert self as one. Therefore not subject to be held as an Expert in Commercial dealings.

(6) PLAINTIFF, NOTICES this Honorable Court to abide by Platsky v. C.I.A holding wherein; any errors found within this counter claim is to be identified, along with Notice of such error given to PLAINTIFF and instructions to PLAINTIFF so timely amendments can be made, and filed.

## II. QUESTION

(1) QUESTION PRESENTED, WITHOUT DOCUMENTING, VERIFYING, AND CERTIFYING THE ALLEGED DEBT EVIDENCING THE PENAL SUM AMOUNT ON THE CHARGING PRESENTMENTS, OR THE FACE OF THE RECORD, UPON WRITTEN REQUEST OR DEMAND OF THE ALLEGED DEBTOR; IS THERE THEN ANY LAWFUL DEBT, LAWFUL DUTY, LAWFUL OBLIGATION OR LAWFUL PERFORMANCE OWED?

(2) QUESTION PRESENTED, IF THE ANSWER TO QUESTION NUMBER ONE (1) ABOVE IS NO; IS THEN THIS AFOREMENTIONED REFERENCED ALLEGED CRIMINAL CAUSE/ACTION/JUDGMENT ANY LONGER EQUITABLE THAT IT SHOULD HAVE PROSPECTIVE APPLICATION?

(3) QUESTION PRESENTED, DOES NOT FULL DISCLOSURE PRACTICES AND LAW PERTAIN TO ALL CORPORATIONS INCLUDING THE COMMONWEALTH OF PENNSYLVANIA?

### III. COUNTER CLAIM

(1) PLAINTIFF AVERS, that the COMMONWEALTH OF PENNSYLVANIA and or its agents, located at the 51st Judicial District of Pennsylvania, Adams County, 111-117 Baltimore Street, Gettysburg, Pa. 17325, herein and henceforth known as "FRAUDULENT INJURED PARTY", Has at NO TIME, EVER GIVEN PLAINTIFF NOTICE OF OR FULL DISCLOSURE of the fact of "ALL CRIMES ARE COMMERCIAL", C.F.R 7211 part 7. Thus, affording PLAINTIFF Opportunity from the very beginning to cure, remedy, any lawful debt, duty, performance, or obligation lawfully due, to the FRAUDULENT INJURED PARTY. As it relates to and pertains to the aforementioned referenced, alleged criminal cause/action.

(2) PLAINTIFF AVERS, that the FRAUDULENT INJURED PARTY, DID through acts of fraud, cause PLAINTIFF, unknowingly and unintelligently, to be identified as both Original Principal and Original surety on three bonds. Resulting in PLAINTIFF unknowingly and unintelligently to become the Original Holder-in-Due Course of bonds identified as follows: a) BID DOND: CUSIP Numbers 176466869; AUTOTRIS Number 176466869, form SF24. b) PERFORMANCE BOND, CUSIP Number 176466869; AUTOTRIS Number 176466869, form SF25. c) PAYMENT BOND: CUSIP Number 176466869; AUTOTRIS Number 176466869, form SF25A. Due to lack or want of FULL DISCLOSURE being given to PLAINTIFF by the FRAUDULENT INJURED PARTY, prior to proceeding including the very existence of above said bonds, and as evidenced by the face of the record and as it relates to and pertains to the aforementioned referenced alleged criminal cause/action.

3) PLAINTIFF AVERS, that the aforementioned referenced bonds are negotiable instruments under 48 C.F.R. part 12 and 15 U.S.C.A. §78, which have been negotiated, reinsured, sold, traded and the like, without ever having ANY negotiations between any prospective purchaser or trader and this PLAINTIFF: whom also

being the Original Holder-In-Due Course, Original Principal and Original surety by and through acts of Fraud carried out by the FRAUDULENT INJURED PARTY. As it relates to and pertains to the aforementioned referenced alleged criminal cause/action.

4) PLAINTIFF AVERS, that PLAINTIFF DID NOTICE the FRAUDULENT INJURED PARTY to: Document, verify and certify ANY lawful debt evidencing the Penal sum amount, (see exhibit A page. 4 sec. D, No 4.4) under the authority of the Fair Debt Collections Practice Act, of the I.R.S. Restructuring and Reform Act of 1998 (see exhibit A pg. 10, sec. I, No. 8.2 and pg. 11, No. 8.4) Through Presentment entitled, "Demands of: Proof/Evidence of certified validated debt on summary record of the defendant, subject matter jurisdiction; motion to dismiss cause/action and vacation of judgment order for void judgment/plea arrangement and collateral relief" RE: CC-754-00. Dated June 13, 2007, mailed June 15, 2007, certified mail article number: 7007 0710 0001 4112 7453, Date filed with the clerk of courts, June 18, 2007 at 11:59 am, and once again on August 28, 2007 at 1:00 pm. (see exhibit A) as it relates to and pertains to the aforementioned referenced alleged criminal cause/action.

5) PLAINTIFF AVERS, that the FRAUDULENT INJURED PARTY, in their written response through Court order dated August 22, 2007 and mailed on 10/2/07 and received by PLAINTIFF on 10/04/07 at 1:30 pm, (see exhibit E) has failed or refused to: DOCUMENT, VERIFY AND CERTIFY ANY lawful debt evidencing the Penal Sum amount allegedly owed by this PLAINTIFF, violating 15 U.S.C.A 1692g, 15 U.S.C.A 1962e and 15 U.S.C.A. 1692f. Thus, affording this PLAINTIFF to remedy for an unlimited amount for intentional infliction of emotional anguish, (see exhibit A pg. 11, 8.5) and as it relates to and pertains to the aforementioned referenced alleged criminal cause/action.

6) PLAINTIFF AVERS, that PLAINTIFF DID NOTICE THE FRAUDULENT INJURED PARTY of collateral relief that includes the dollar amount of \$175,500.00 as well as deprivation of FRAUDULENT INJURED PARTY'S "SOVEREIGN IMMUNITY" (see Exhibit A pg. 9 above CAVEAT and pg 11, 8.9) As it relates to and pertains to the aforementioned referenced alleged criminal cause/action.

7) PLAINTIFF AVERS, that PLAINTIFF DID NOTICE the FRAUDULENT INJURED PARTY of their failure or refusal to: document, verify and certify ANY lawful debt evidencing the penal sum as well as making FALSE CLAIMS of criminal injury set against the PLAINTIFF and perpetuated acts of fraud and failure or refusal to repair this PLAINTIFF, causing treble (3x) to collateral relief, for a new amount of \$526,500.00 Said NOTICE given through Presentment entitled "AFFIDAVIT IN SUPPORT OF COMPLAINT", date August 14, 2007, certified mail article number: 7006 2760 0004 5489 3663. (See Exhibit B pg 1 section f, pg 2 section 1f, pgs 3 & 4 sections, 3, 4, 5, 6 & 7). As it relates to and pertains to the aforementioned inferred alleged criminal cause/action.

8) PLAINTIFF AVERS, that NOTICE was given to the FRAUDULENT INJURED PARTY of PLAINTIFFS EXEMPTION: Number 176466869. By and through Presentment entitled "ACTUAL AND CONSTRUCTIVE NOTICE", appointing Shawn C. Wagner, District Attorney of Adams County as Fiduciary over and upon PLAINTIFFS EXEMPTION, among other things, as it relates to and pertains to aforementioned referenced alleged criminal cause/action. (See Exhibit C).

9) PLAINTIFF AVERS, that NOTICE was given to the FRAUDULENT INJURED PARTY through Presentment entitled "ACTUAL AND CONSTRUCTIVE NOTICE, RE: CC-754-00 and RE: INVOICE of TORT," dated September 25, 2007, Certified mail article number 7006 2760 0004 5489 3649, Item No. DEC-ACN03-092507; of forty (40) days elapsed past deadline stipulated causing a new sum certain amount of \$14,179,500.00 on the Civil Action for failing or refusing to

respond and \$60,000,000.00 for the unconstitutional deprivation of liberty for a total current up to date sum certain of \$74,179,500.00 (See Exhibit D page 1). As it relates to and pertains to aforementioned refernced Alleged Criminal Cause/Action.

10) PLAINTIFF AVERS, that the FRAUDULENT INJURED PARTY has failed or refused to: respond to, rebutt, contest, challenge, deny or dispute, or perform to ANY and ALL of the aforementioned referenced NOTICES PRESENTMENTS this PLAINTIFF served upon said FRAUDULENT INJURED PARTY: Thus, this PLAINTIFF accepts FRAUDULENT INJURED PARTY'S silence as Dishonor and as Agreement to ALL presentments notices and terms stipulated therein, as it relates to and pertains to aforementioned referenced alleged criminal cause/action.

11) PLAINTIFF AVERS, that if the alleged debt owed is not documented, verified, and certified by the FRAUDULENT INJURED PARTY, then there is NO DEBT, DUTY, OBLIGATION, OR PERFORMANCE DUE. Therefore, NO INJURY, NO INJURED PARTY, NO CONTROVERSY, NO VALID CHARGING PRESENTMENTS, THUS NO SUBJECT MATTER JURISDICTION, VOID ab initio Judgment. Hence the FRAUDULENT INJURED PARTY failed to state a claim in which relief could be granted. F.R.C.P Rule 12 (b)(6) as it relates to and pertains to the aformentioned referenced alleged criminal cause/action.

#### CONCLUSION

For which this PLAINTIFF herein and now collaterally attacks and seeks relief by independent action through counterclaim to dismiss the aforementioned referenced alleged criminal cause/action and vacate a void judgment, since this PLAINTIFF, having been unlawfully incarcerated since May 10, 2001 without valid charges. As it relates to and pertains to the aforementioned referenced alleged criminal cause/action.



#### IV MEMORANDUM OF LAW

##### A) The Nature of Subject Matter Jurisdiction

"The jurisdiction of a court over the subject matter has been said to be essential, necessary, indispensable and an elementary prerequisite to the exercise of judicial power." 21 C.J.S., "Courts", § 18, p. 25. "A Court cannot proceed with a trial or make a judgment without such jurisdiction existing. Without it the court lacks any power to proceed; therefore, a defense based upon this lack cannot be waived and may be asserted at any time." Matter of Green, 313 S.E.2d 193 (N.C.App.1984). "Without a formal and sufficient indictment or information, a court does not acquire subject matter jurisdiction and that the accused may not be punished for a crime." Honomichl v. State, 333 N.W.2d 797, 798 S.D. (1983).

##### B) The Nature of Full Disclosure

"In consumer law, which is governed by Truth-in-lending Act: Fair Debt Collection Practices Act, and other Acts and Codes, the obligation to reveal ALL details of a transaction to the consumer." A fiduciary who participates in a transaction for his own benefit is required to FULLY reveal the details of such. "Blacks Law Dictionary, 6th ed., 15 U.S.C.A. §1692g; 15 U.S.C.A. § 1692e and 15 U.S.C.A. § 1692f. A Fiduciary includes the following: "an attorney-at-law, a guardian, executor, or broker, a director of a corporation, and a public officer," Blacks Law Dictionary, 6th ed.

V REMEDY

PLAINTIFF, Prayerfully seeks the following Remedy:

- 1) ALLEGED CRIMINAL CAUSE/ACTION dismissed. (CR-754-2000)
- 2) VOID JUDGMENT VACATED, As it relates to and pertains to aformentioned referenced alleged criminal cause/action.
- 3) PLAINTIFF, retrieved by U.S. Marshalls along with ANY AND ALL property and ALL records, of said PLAINTIFF and delivered to this Honorable Court for the purpose of release from this unlawful incarceration.
- 4) Monetary Relief in accordance with Exhibits and to be finished calculated by this Honorable Court including all treble (3X) damages for the maximum monetary relief sought and a minimum monetary relief of \$75,750,000.00 Seventy Five Million Seven Hundred and fifty thousand dollars and zero cents, lump sum payment and for the FRAUDULENT INJURED PARTY to pay all costs, fees due for this Counterclaim and all filing's, copying, U.S. Marshalls fees, anything and everything associated with process and procedures.
- 5) PLAINTIFF, returned FULLY to Status prior to the unlawful incarceration.

I, place MY hand and seal hereto this 17<sup>th</sup> Day of January Month in the Year of Our Lord Two Thousand Eight and Certify that the facts contained herein are true, correct, complete, and not meant to mislead to the best of MY Knowledge, Understanding, and Conviction.

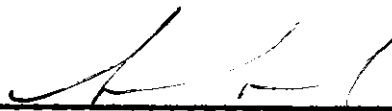
By: Donald Edward Cool,  
Without Prejudice  
Authorized Representative  
Donald Edward Cool  
Plaintiff

DONALD EDWARD COOL : ALLEGED CRIMINAL CAUSE/ACTION  
PLAINTIFF : CR-754-2000 A.K.A. CC-754-00  
 :  
VS. :  
COMMONWEALTH OF PENNSYLVANIA :  
DEFENDANT : No. \_\_\_\_\_

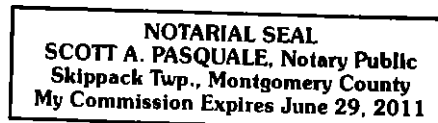
ACKNOWLEDGMENT  
WITHOUT PREJUDICE-UNDER NECESSITY-WITHOUT RECOURSE

COMMONWEALTH OF PENNSYLVANIA :  
 :  
COUNTY OF MONTGOMERY :

SUBSCRIBED TO AND SWORN before me this 17<sup>th</sup> Day of  
January, A.D. 2008, a Notary Public, that  
Donald Edward Cool, personally appeared and made known to me to  
be the man whose name is subscribed to within this Independent  
Action To Vacate Void Judgment.

  
\_\_\_\_\_  
Notary Public

Seal



**AFFIDAVIT OF PROOF OF SERVICE**

I, Samuel L. Maldonado, not a party to the within action, affirms the following:

My business address is: AM-7546, Box 244, Graterford, PA 19426-0244

On the 9<sup>th</sup> day of MARCH 2008, I mailed one (1) original and three (3) copies of the following enumerated documents:

- 1) Cover letter to: Ms. Mary E. D'Andrea, Clerk of Court for the U.S.  
District Court for the Middle District of Pennsylvania
- 2) Declaration of In Forma Pauperis with Certificate
- 3) Proposed Judgment Order
- 4) Counterclaim
- 5) Memorandum of law
- 6) Acknowledgment
- 7) Affidavit in Support of Counterclaim
- 8) Jurat
- 9) Exhibits A-E

For a total of 275 pages mailed herewith, including any attachments (not including this proof of service) by UNITED STATES POSTAL SERVICE VIA UNITED STATES POST OFFICE, Certified Mail Return Receipt for Merchandise, Certified Mail Article Number: 7007 0710 0001 4110 7820, in a sealed envelope with postage pre-paid, which service is satisfied pursuant to Fed.R.Civ.P. 4, properly addressed as follows:

Ms. Mary E. D'Andrea, Clerk of Court for the U.S.  
District Court for the Middle District of Pennsylvania  
William J. Nealon Federal Bldg., 235 N. Washington Ave.  
P.O. Box 1148, Scranton, PA 18501-1488

DATE: 3/9/08

/s/ Samuel L. Maldonado

From: Mr. Donald E. Cool, EQ-7245  
Box 244  
Graterford, PA 19426-0244

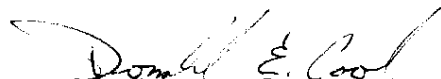
TO: Ms. Mary E. D'Andrea  
U.S. District Court for the Middle District  
of Pennsylvania, William J. Nealon Federal Bldg.  
235 N. Washington Ave.  
PO Box 1148  
Scranton, PA 18501-1488

RE: FILING OF MOTION OF COUNTERCLAIM

Salutations Ms. D'Andrea:

Enclosed you will find an original and three (3) copies of above referenced motion. Please file and time date stamp this motion. Please, by return mail to above referenced address, mail one (1) of the time/date stamped filed copies back to my attention. Thanking you in advance for your services.

Yours truly,

  
\_\_\_\_\_  
Donald E. Cool  
Without Prejudice

7007 0710 9001 4110 7820

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DONALD COOL, EQ-7845  
BOX 244  
Greater Ford, PA 19426-0244

RECEIVED  
SCRANTON

MAR 12 2008

PER   
DEPUTY CLERK

MS. Mary E. D'Andrea, Clerk of Court for the U  
District Court for the Middle District of Pennsylvania  
William J. Nealon Federal Bldg., 235 N. Washington Ave  
Po. Box 1148  
Scranton, PA 18501-1148

MAR 12 2008